

How Shareholder Activism Moved the Needle on Sustainability in 2011

Leslie Guevarra | July 8, 2011

From fracking by companies such as Chevron, Exxon Mobil and Ultra Petroleum to greater use of recyclable cups by McDonald's and Starbucks, a host of CSR issues captured shareholders' attention and support this year, according to reports on the 2011 proxy season from **As You Sow** and Ceres.

A record number of shareholder resolutions calling for companies to be more responsible in handling corporate sustainability challenges were filed, according to Ceres' report.

And the response -- in terms of votes cast supporting the resolutions and decisions by some companies to engage on issues before votes were taken -- illustrates the growing impact of the strategy as well as a dawning realization by shareholders of the power they can wield, according to **As You Sow** CEO Andrew Behar.

"The number of shareholders that actually realize they have power has been increasing and, overall, the number of votes have been increasing," Behar told GreenBiz.com.

On matters such as natural gas fracking, the votes on resolutions clearly show that "shareholders are looking at issues and saying, 'This is really risky and the company has to do something about it,'" Behar said.

"Extraordinary show of support," "exceptionally strong showing" and "outstanding" were among the phrases **As You Sow** used to describe responses to the 20 resolutions that the organization filed or co-filed on behalf of shareholders this year. Here is a breakdown of the results, which are detailed in a report released this week:

- 11 resolutions went to ballot. The votes cast in support of each resolution exceeded the thresholds set by the Securities Exchange Commission to qualify for refiling next proxy season. The chart, right, shows the vote results.
- Seven resolutions were withdrawn as a result of company commitments to take up the issues, meaning that firms agreed they should act and pledged to do so, if they hadn't already taken steps by the time the withdrawal occurred. Companies that don't make good on their promises can expect the filers of the resolutions to press their points until the matters are resolved.
- Two resolutions are scheduled for shareholder votes in fall.

The first two stats count as "wins" in the world of shareholder proposals. Ideally, resolutions would receive a majority vote. That seldom happens, so as a practical matter, the aim is to keep issues alive and highly visible to companies, their shareholders and their market until the concerns are resolved. Refiling resolutions and the interactions that occur until companies fulfill their promises are ways of maintaining that focus on issues.

"We're seeing more proactive work by some companies," Behar said of the commitments that prompted withdrawal of resolutions. "When we're dealing with companies with brands that have customer goodwill, those companies want to protect their brands and they're willing to come to the table to hear us out in good faith." he said, pointing out Yum's decision to use receipts without Bisphenol A and successes in earlier years involving General Electric's mercury labeling for CFLs and Best Buy's e-waste takeback program.

Traditional energy companies, however, "tend not to have the same sort of goodwill from the market and those folks are more difficult to move," Behar said. But this season, three energy companies responded to resolutions calling for reports on the financial risks the firms face by continuing to use coal to generate electricity. And the organization's research on risks posed by reliance on coal led to productive outcomes where votes were taken. "Even if the votes were

low this year, it was a good starting place," said Behar.

As expected, fracking was in the spotlight this proxy season and investors strongly signaled their concerns as Robert Kropp from SocialFunds.com and Ceres President Mindy Lubber noted in posts that appeared on GreenBiz.

As You Sow filed four shareholder resolutions on fracking. A resolution involving Anadarko Petroleum Corporate was withdrawn, and the vote percentages for the three others ranged from nearly 30 percent to 42 percent. The high end of that range represents "an extraordinary show of support," the organization said.

In all, nine shareholder resolutions were filed on fracking, including those from **As You Sow**, according to Ceres. Votes taken in five of the cases demonstrated "substantial support" of about 30 percent to just under 50 percent, Ceres said. Of the four remaining resolutions, three firms -- Cabot Oil & Gas, El Paso Corporation and Southwestern Energy -- joined Anadarko in promising better disclosure about possible consequences of fracking and prompting the resolutions to be withdrawn.

In its report two weeks ago, Ceres said 109 shareholder resolutions were filed this proxy season with 81 firms in the United States and Canada. Ceres tracks and coordinates shareholder resolutions related to climate change, energy, water and supply chain. Ceres' tally includes **As You Sow's** resolutions involving fracking, coal and chemicals.

Ceres works with the Interfaith Center on Corporate Responsibility to coordinate shareholder resolutions and lent assistance to the Investor Environmental Health Network and Green Century Capital Management, which marshaled resolutions on fracking.

Other highlights from the Ceres report include:

- 45 resolutions were withdrawn after companies made commitments about natural gas fracking, water scarcity, coal ash disposal and oil refinery risk management.
- 28 resolutions, another record, were filed with 18 electric power providers.
- Seldom-seen majority votes were logged in shareholder resolutions with three companies:
 - * 92.8 percent on a demand for sustainability reporting from water infrastructure services company Layne Christensen.
 - * 52.7 percent on a resolution about coal ash involving Ameren, an electric utility.
 - * 54.3 percent on a resolution about oil refinery risks and Tesoro, one of the Texas firms that helped bankroll a failed measure to overturn California's landmark climate law last year.

"The strength of this year's proxy season shows unwavering investor concern about how companies are managing the environmental risks of fossil fuel sourcing and the ongoing shift to a clean, low-carbon global economy," Lubber of Ceres said in a statement released with her organization's report.